NORTH CAROLINA GENERAL ASSEMBLY



JOINT LEGISLATIVE COMMISSION ON ENERGY POLICY

REPORT TO THE
2014 SESSION
of the
2013 GENERAL ASSEMBLY



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TRANSMITTAL LETTER

May 14, 2014

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TO THE MEMBERS OF THE 2014 REGULAR SESSION OF THE 2013 GENERAL ASSEMBLY

Pursuant to Article 33 of Chapter 120 of the General Statutes, the Joint Legislative Commission on Energy Policy submits its report and recommendations to the 2014 Regular Session of the 2013 General Assembly.

Respectfully submitted,

Senator Bob Rucho

Representative Mike Hager

Co-Chairs

Joint Legislative Commission on Energy Policy



STATUTORY AUTHORITY

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NORTH CAROLINA GENERAL STATUTES

Article 33.

Joint Legislative Commission on Energy Policy.

§ 120-285. Creation and membership of Joint Legislative Commission on Energy Policy.

- (a) The Joint Legislative Commission on Energy Policy is established.
- (b) The Commission shall consist of 10 members as follows:
 - (1) Five members of the Senate appointed by the President Pro Tempore of the Senate, at least one of whom is a member of the minority party.
 - (2) Five members of the House of Representatives appointed by the Speaker of the House of Representatives, at least one of whom is a member of the minority party.
- (c) Terms on the Commission are for two years and begin on the convening of the General Assembly in each odd-numbered year. Members may complete a term of service on the Commission even if they do not seek reelection or are not reelected to the General Assembly, but resignation or removal from service in the General Assembly constitutes resignation or removal from service on the Commission. A member continues to serve until the member's successor is appointed.

§ 120-286. Purpose and powers and duties of Commission.

- (a) The Joint Legislative Commission on Energy Policy shall exercise legislative oversight over energy policy in the State. In the exercise of this oversight, the Commission may do any of the following:
 - Monitor and evaluate the programs, policies, and actions of the Mining and Energy Commission established pursuant to G.S. 143B-293.1, the Energy Policy Council established pursuant to G.S. 113B-2, the Energy Division in the Department of Commerce, the Utilities Commission and Public Staff established pursuant to Chapter 62 of the General Statutes, and of any other board, commission, department, or agency of the State or local government with jurisdiction over energy policy in the State.
 - (2) Review and evaluate existing and proposed State statutes and rules affecting energy policy and determine whether any modification of these statutes or rules is in the public interest.
 - (3) Monitor changes in federal law and court decisions affecting energy policy.

- (4) Monitor and evaluate energy-related industries in the State and study measures to promote these industries.
- (5) Study any other matters related to energy policy that the Commission considers necessary to fulfill its mandate.
- (b) The Commission may make reports and recommendations, including proposed legislation, to the General Assembly from time to time as to any matter relating to its oversight and the powers and duties set out in this section.

§ 120-287. Organization of Commission.

- (a) The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall each designate a cochair of the Joint Legislative Commission on Energy Policy. The Commission may meet at any time upon the call of either cochair, whether or not the General Assembly is in session.
 - (b) A quorum of the Commission is six members.
- (c) While in the discharge of its official duties, the Commission has the powers of a joint committee under G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4. The Commission may contract for consultants or hire employees in accordance with G.S. 120-32.02.
- (d) From funds available to the General Assembly, the Legislative Services Commission shall allocate monies to fund the Joint Legislative Commission on Energy Policy. Members of the Commission receive subsistence and travel expenses as provided in G.S. 120-3.1. The Legislative Services Commission, through the Legislative Services Officer, shall assign professional staff to assist the Commission in its work. Upon the direction of the Legislative Services Commission, the Supervisors of Clerks of the Senate and of the House of Representatives shall assign clerical staff to the Commission. The expenses for clerical employees shall be borne by the Commission.

COMMISSION MEMBERSHIP

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JOINT LEGISLATIVE COMMISSION ON ENERGY POLICY

2013-2014 Membership

Pursuant to G.S. 120-285, The Joint Legislative Commission on Energy Policy consists of 10 members, 5 appointed by the President Pro Tempore of the Senate, at least one of whom is a member of the minority party and 5 appointed by the Speaker of the House of Representatives, at least one of whom is a member of the minority party.

President Pro Tempore of the Senate Appointments:

Senator Bob Rucho, Co-Chair

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Senator Andrew Brock

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Senator Gene McLaurin

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Speaker of the House of Representatives Appointments:

Representative Mike Hager, Co-Chair

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Representative Jacqueline Schaffer

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COMMISSION PROCEEDINGS

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The Joint Legislative Commission on Energy Policy met eight times during the interim between the 2013 and the 2014 Regular Sessions of the General Assembly. The Commission's Charge can be found here. The following is a brief summary of the Commission's proceedings. Detailed minutes and information from each Committee meeting are available in the Legislative Library and online.

¹ The website for the Joint Legislative Commission on Energy Policy: http://ncleg.net/gascripts/Committees/Committees.asp?sAction=ViewCommittee&sActionDetails=Non-Standing_6576



1:00 p.m. Tuesday, October 1, 2013

Room 544 Legislative Office Building Raleigh, North Carolina

- 1. Call to order
 Senator Bob Rucho, Presiding
- 2. Introductory remarks by Cochairs (10 minutes)
 Senator Bob Rucho
 Representative Mike Hager
- 3. Introduction of Members and Staff (15 minutes)
- 4. Review of Commission Charge (5 minutes)
 Jennifer McGinnis, Commission Counsel
- 5. Report on activity of the Department of Environment and Natural Resources (DENR) related to development of a modern regulatory program for the management of oil and gas exploration and development activities in the State, and use of horizontal drilling and hydraulic fracturing (fracking) for that purpose. (45 minutes)
 - a. Merger of the State Energy Office into the Division of Energy, Mineral and Land Resources.
 - b. Use of funds authorized by the 2012 and 2013 appropriations acts (S.L. 2012-142 and S.L. 2013-360, respectively) for: staff assistance to the Mining and Energy Commission (MEC); data collection and analysis of geological samples in the Deep River, Dan River, and the Cumberland-Marlboro Basins; and marketing expenses related to shale gas resources.
 - c. DENR's recent decision to decline Wetlands Program Development Grants from the United States Environmental Protection Agency, including nature and amount of grants, basis for the decision, and prospects for reapplication.
 - d. Report on DENR's findings and recommendations concerning the study of the State's current law on the issue of integration or compulsory pooling and other states' laws on the matter (Sec. 2(l) of S.L. 2012-143/S820, as amended by Sec. 12(c) of S.L. 2012-201/H953, October 1, 2013)

Mitch Gillespie, Assistant Secretary for the Environment DENR

- 6. Report on activity of the MEC concerning the rule development process for the management of oil and gas exploration and development activities in the State, and use of fracking for that purpose, as well as ongoing studies directed by S.L. 2013-365. (1 hour 25 minutes)
 - a. Overview of Commission activities

b. Rules

1. Overview of process, timeline, and administration James Womack, Chairman

MEC

2. Water and Waste Management Committee

Dr. Vikram Rao, Member

MEC.

3. Environmental Standards Committee

George Howard, Member

MEC

4. Rules Committee

Amy Pickle, Member

MEC

- c. Completed Studies -- Findings and Recommendations
 - 1. Levels of appropriate funding and potential sources for that funding deemed necessary in connection with management of oil and gas exploration and development activities in the State. (Sec. 2(j) of S.L. 2012-143/S820, as amended by Sec. 12(a) of S.L. 2012-201/H953, October 1, 2013) Jane Lewis-Raymond, Member

MEC

2. Local government regulation of oil and gas exploration and development activities, and the use of fracking for that purpose. (Sec. 2(k) of S.L. 2012-143/S820, as amended by Sec. 12(b) of S.L. 2012-201/H953, October 1, 2013) (10 minutes)

Charles Taylor, Member

MEC

3. The State's current law on the issue of integration or compulsory pooling and other states' laws on the matter (Sec. 2(l) of S.L. 2012-143/S820, as amended by Sec. 12(c) of S.L. 2012-201/H953, October 1, 2013)

Dr. Ray Covington, Vice Chairman

MEC

- d. Ongoing Studies
 - 1. Study Group Overview

Dr. Ray Covington, Vice Chairman

MEC

2. Coordinated Permitting

Dr. Kenneth Taylor, Ex Officio Member

MEC

3. Protection of Trade Secrets and Proprietary Information James Womack, Chairman

MEC

e. Closing and questions

James Womack, Chairman

MEC

7. Report on activity of the Environmental Management Commission (EMC) concerning the rule development process for the management of oil and gas exploration and development activities in the State, and use of fracking for that purpose (15 minutes)

Benne Hutson, Chairman EMC

8. Report on activity of the Commission for Public Health (CPH) concerning the rule development process for the management of oil and gas exploration and development activities in the State, and use of fracking for that purpose (5 minutes)

Mitch Gillespie, Assistant Secretary for the Environment DENR

- 9. Commission discussion and announcements
- 10. Adjourn



1:30 p.m. Tuesday, November 5, 2013

Room 643 Legislative Office Building Raleigh, North Carolina

1. Call to order

Representative Mike Hager, Presiding

2. Introductory remarks by Cochairs (10 minutes)

Senator Bob Rucho Representative Mike Hager

3. Modernization of oil and gas statutes (1 hour)

Ben Norris, Counsel American Petroleum Institute

James D. Rankin, III, Attorney Perkins & Trotter, PLLC

4. Issues associated with ancient mineral rights (30 minutes)

Theodore A. Feitshans, J.D., Extension Associate Professor Department of Agricultural and Resource Economics, North Carolina State University

5. Compressed natural gas (CNG) and liquefied natural gas (LNG) for transportation (*1 hour*)

Zachary Wester, Policy and Regulatory Associate Robert Clark, Regional Operations Manager, Southeast Bryn Marley, Regional Operations Manager, Northeast Blu.

Brett Barry, Public Policy and Regulatory Affairs Advisor Clean Energy Fuels

6. Current natural gas utilities and services in North Carolina (30 minutes)

Ken Valentine, Vice President of Business Development and Technology Services Piedmont Natural Gas

George Ratchford, Vice-President of Gas Operations PSNC

- 7. Commission discussion and announcements
- 8. Adjourn

1:30 p.m. Tuesday, December 3, 2013

Room 544 Legislative Office Building Raleigh, North Carolina

1. Call to order

Senator Bob Rucho, Presiding

2. Introductory remarks by Cochairs (10 minutes)

Senator Bob Rucho

Representative Mike Hager

- 3. Presentation on issues concerning the electrical grid and measures and strategies that may be taken to strengthen and protect the integrity of the grid from direct or indirect attacks and/or the effects of natural disasters (1 hour)
 - a. NOAH Mission Statement Sid Morris, Founder

The NOAH Foundation

b. The Electric Grid - "Our Most Important Infrastructure"; Why I Wrote "One Second After"

Dr. William Forstchen, Historian and New York Times Best Selling Author

- c. Current Status and Vulnerability of the Grid R. James Woolsey, Former Director Central Intelligence Agency
- d. Why Isn't Our Grid Hardened?
 Peter V. Pry, Executive Director
 Task Force on National and Homeland Security
- 4. Presentation on how municipal electric systems are structured, governing mechanism, and explanation of rates (30 minutes)

T. Graham Edwards, CEO

ElectriCities of North Carolina

5. Presentation on the structure and function of the Utilities Commission and emerging issues in utility regulation (30 minutes)

Edward S. Finley, Jr., Chairman North Carolina Utilities Commission

6. Presentation on the structure and function of Public Staff, primer on rate making for utilities including discussion of avoided cost proceedings, and emerging issues (30 minutes)

Christopher J. Ayers, Executive Director Public Staff, North Carolina Utilities Commission 7. Presentation on how electric cooperatives are structured, governing mechanism, and alternative method of regulation (30 minutes)

Joe Brannan, Executive Vice President & Chief Executive Officer, North Carolina Electric Membership Corporation

- 8. Commission discussion and announcements
- 9. Adjourn



1:00 p.m. Tuesday, January 7, 2014

Room 544 Legislative Office Building Raleigh, North Carolina

1. Call to order

Representative Mike Hager, Presiding

2. Introductory remarks by Cochairs (10 minutes)
Senator Bob Rucho

Representative Mike Hager

3. Duke Energy overview and emerging issues (30 minutes)

Paul Newton, President Duke Energy, North Carolina

- 4. Senate Bill 3 (1 hour 5 minutes)
 - a. Legislation overview (15 minutes)
 Heather Fennell, Commission Counsel
 - b. Renewable energy in the regulatory process (20 minutes)
 Dan Conrad, Attorney
 North Carolina Utilities Commission
 - c. Questions/follow-up on renewable energy in the regulatory process (10 minutes)

Christopher J. Ayers, Executive Director Public Staff, North Carolina Utilities Commission

- d. Renewable energy providers in North Carolina (20 minutes)
 Ivan Urlaub, Executive Director
 North Carolina Sustainable Energy Association
- 5. Presentations related to use of alternative fuels for the State's school bus fleets (25 minutes)
 - a. Overview of North Carolina Alternative Fuels Feasibility Study (S.L.2012-186)
 Neal Robbins, Director of Legislative and Intergovernmental Affairs
 Department of Environment and Natural Resources (DENR)
 - Presentation on addition of propane fuel option to State's school bus bidding form Bill Daughtridge, Jr., Secretary Department of Administration

Derek Graham, Section Chief Transportation Services, Department of Public Instruction

- 6. Presentation on permitting of wind energy facilities in the State (25 minutes)
 - a. Overview of H484/S.L. 2013-51

Jennifer R.F. Mundt, Commission Analyst

- b. Status of wind permitting process within DENR and pending projects
 Mitch Gillespie, Assistant Secretary for Environment
 DENR
- 7. USEPA's proposed greenhouse gas emissions (carbon control) standards for new and existing power plants: (a.) Briefing on proposed regulations and recently introduced Congressional legislation to repeal rules (H.R. ___, Whitfield-Manchin Legislation); and (b.) Presentation of testimony given to the Committee on Energy and Commerce Subcommittee on Energy and Power of the United States House of Representatives (25 minutes)

Donald R. Van der Vaart, Ph.D, P.E., J.D. Chief, Permitting Section, Division of Air Quality, DENR

- 8. Commission discussion and announcements
- 9. Adjourn

1:30 p.m. Tuesday, February 4, 2014

Room 643 Legislative Office Building Raleigh, North Carolina

1. Call to order

Senator Bob Rucho, Presiding

2. Introductory remarks by Cochairs (10 minutes)

Senator Bob Rucho

Representative Mike Hager

- 3. Approval of the minutes from the October 1, 2013, November 5, 2013, and December 3, 2013 Commission meetings
- 4. Overview of liquefied natural gas facilities and exports (1 hour 15 minutes)
 - a. Bruce McKay, Managing Director, Federal Affairs Dominion
 - b. Bill Cooper, PresidentThe Center for Liquefied Natural Gas
- 5. Report on activity of the Mining and Energy Commission (MEC) concerning the rule development process for the management of oil and gas exploration and development activities in the State, and use of fracking for that purpose. (*1 hour 15 minutes*)
 - Update of MEC activities, milestones, and scheduling James Womack, Chairman

MEC

b. Water / Wastewater Management & Environmental Standards Committee updates

James Womack, Chairman

MEC

c. Administration of Oil & Gas Committee update

Charles Holbrook, Member

MEC

d. Rules Committee update

Amy Pickle, Member

MEC

e. Coordinated Permitting Study Group findings and conclusions

Dr. Kenneth Taylor, Member

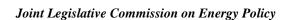
MEC

f. Pooling, unitization, and other statutory changes needed

Dr. Ray Covington, Vice-Chairman

MEC

- 6. Discussion of members' and staff November 2013 visit to Arkansas (30 minutes)
 - a. Overview Jennifer L. McGinnis, Commission Counsel
 - b. Member discussion
- 7. Overview and discussion of net-zero energy schools (30 minutes)
 - a. Robbie Ferris, CEO/President SfL+A Architects
 - b. Steven Hunt, CEO and General Manager Lumbee River EMC
- 8. Commission discussion and announcements
- 9. Adjourn



1:30 p.m. Tuesday, March 4, 2014

Room 643 Legislative Office Building Raleigh, North Carolina

1. Call to order

Representative Mike Hager, Presiding

2. Introductory remarks by Cochairs (5 minutes)
Senator Bob Rucho

Representative Mike Hager

- 3. Approval of the minutes from the January 7, 2014 Commission meeting
- 4. Report on activity of the Energy Policy Council (45 minutes)
 Lieutenant Governor Dan Forest
- 5. Report from the Office of the Governor on development of a regional interstate offshore energy policy compact pursuant to S.L. 2013-365/S76, Sec. 7 (15 minutes)

 Donald R. van der Vaart, Ph.D, J.D., P.E., Energy Policy Director

 Department of Environment and Natural Resources
- 6. Follow-up on January presentation concerning addition of propane fuel option to State's school bus bidding form, including status of award(s) (30 minutes)

Dee Jones, Chief Operating Officer Department of Administration

Derek Graham, Section Chief Transportation Services, Department of Public Instruction

7. Overview of severance taxes in other states (45 minutes)

Michael A. Hannah, Senate Tax Counsel

Heather Fennell, Commission Counsel

- 8. Commission discussion and announcements
- 9. Adjourn

1:00 p.m. Tuesday, April 1, 2014

Room 643 Legislative Office Building Raleigh, North Carolina

1. Call to order

Senator Bob Rucho, Presiding

2. Introductory remarks by Cochairs (5 minutes)
Senator Bob Rucho
Representative Mike Hager

- 3. Approval of the minutes from the March 4, 2014 Commission meeting
- 4. Presentation on "<u>The Economic Potential from Developing North Carolina's On-Shore and Off-Shore Energy Resources</u>," report issued April 1, 2013 (30 minutes)

Dr. Michael L. Walden

William Neal Reynolds Distinguished Professor

Department of Agricultural and Resource Economics

North Carolina State University

- 5. Presentations from faculty and staff from North Carolina A&T's Center for Energy Research and Technology (CERT), North Carolina State University, and UNC Charlotte's Energy Production & Infrastructure Center (EPIC), with overviews of the energy programs at their respective institutions (45 minutes)
 - a. Raymond C. Tesiero, Mechanical Engineer & Research Coordinator, CERT North Carolina A&T State University
 - b. Louis Martin-Vega, Dean of the College of Engineering North Carolina State University
 - c. Dr. Johan Enslin, Director, EPIC University of North Carolina Charlotte
- 6. Reports on: (i) activity of the Mining and Energy Commission (MEC) concerning the rule development process for the management of oil and gas exploration and development activities in the State, and use of fracking for that purpose; and (ii) report on the study required by Section 2(b) of S.L. 2013-365 concerning an appropriate rate of severance tax that should be imposed in association with oil and gas exploration and development activities using horizontal drilling and hydraulic fracturing treatments in the State (45 minutes)

James Womack, Chairman MEC

7.(a) Reports on legislative changes requested or recommended by MEC in association with development of a modern regulatory program for the management of oil and gas

exploration and development activities in the State, and use of fracking for that purpose, as required by Section 2(m) of S.L. 2012-143 (30 minutes)

James Womack, Chairman MEC

7.(b) Reports on legislative changes requested or recommended by the Department of Environment and Natural Resources (DENR) in association with development of a modern regulatory program for the management of oil and gas exploration and development activities in the State, and use of fracking for that purpose, as required by Section 2(m) of S.L. 2012-143 (15 minutes)

Donald R. van der Vaart, Ph.D, J.D., P.E., Energy Policy Director DENR

- 8. Presentation on changes needed for energy-related road use (15 minutes)

 Jon Nance, Deputy Chief Engineer

 Department of Transportation
- 9. Commission discussion and announcements
- 10. Adjourn

1:00 p.m. Thursday, May 8, 2014 Room 643 Legislative Office Building Raleigh, North Carolina



COMMISSION RECOMMENDATIONS

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The Joint Legislative Commission on Energy Policy makes the following recommendations:





LEGISLATIVE PROPOSALS

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